

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

DAVID CHRISTENSON &
ANNIKEN PROSSER,

Plaintiffs,

v.

Case No. 20-cv-194-WCG

ALEX AZAR, in his capacity as Secretary
of the United States Department of Health
and Human Services,

Defendant.

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Plaintiffs David Christenson and Anniken Prosser, by their undersigned attorneys, move the Court pursuant to Rule 56 of the Federal Rules of Civil Procedure for summary judgment and entry of an order holding that the Secretary is estopped from denying Mr. Christenson and Mrs. Prosser's claims for TTFT coverage and directing the Secretary to cover the claims at issue in this case.

Plaintiffs have repeatedly litigated the issue of whether the life-extending TTFT is a Medicare covered benefit/is "medically reasonable and necessary" to treatment their glioblastoma. Dispute multiple prior decisions finding that TTFT was covered, the Secretary forces Plaintiffs to repeatedly litigate the matter. In the decisions complained of, contrary to the prior decisions, the ALJ found that TTFT was not covered. That conclusion is barred by collateral estoppel.

Plaintiffs are filing a Memorandum in Support of Plaintiffs' Motion for Summary Judgment. In addition, the motion is supported by the Declaration of James C. Pistorino and the attached Exhibits A-P. As set forth there, Exhibits F and O are the decisions at issue while all the other exhibits are either prior favorable decisions or copies of the proceedings below.

Dated: April 11, 2020

Respectfully submitted,

DAVIS & PLEDL, SC

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